



INDIANA DEPARTMENT OF TRANSPORTATION

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Eric Holcomb, Governor
Joe McGuinness, Commissioner

May 9, 2018

INDIANA
STATE ETHICS COMMISSION

MAY 09 2018

FILED

Mr. James Clevenger, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

RE: Post-Employment Waiver for Former INDOT Employee Kevin Hetrick

Dear Mr. Clevenger:

As the Commissioner of INDOT, I have approved and executed a waiver of the particular matter restriction for INDOT employee Kevin Hetrick. Unfortunately, I must attend another meeting on the same date and at the same time as the May 10, 2018 meeting at 10:00 a.m. of the Indiana State Ethics Commission, so I will be unable to attend this meeting of the Commission.

I have discussed my reasons for granting this waiver with Chris Kiefer, INDOT's Chief of Staff. Mr. Kiefer will be able to attend the Commission's May 10, 2018 meeting, present the waiver to the Commission, and answer all questions of the Commission members concerning the form and substance of the waiver for Mr. Hetrick.

Thank you very much for allowing Chris Kiefer to serve as my representative at the Commission's May 10, 2018 meeting.

Sincerely,

Joseph McGuinness
Commissioner
Indiana Department of Transportation

cc: Chris Kiefer, Chief of Staff, INDOT

INDIANA
STATE ETHICS COMMISSION

MAY 10 2018

IC 4-2-6-11

FILED

Post-employment waiver

As the Appointing Authority of the Indiana Department of Transportation, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to former INDOT employee Kevin Hetrick in his/her post-employment with Clark Dietz, Inc.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

The following information is based upon information the former employee, Kevin Hetrick, and current INDOT employee Sarah Rubin has provided to INDOT's Ethics Officer in connection with the process of considering this waiver.

Hetrick worked as a member of the INDOT I-69 Section Project Team with Sarah Rubin and Jim Stark during the preliminary project stages. Hetrick served as Co-Project Manager of this Team between October, 2014, and July, 2015, during which the alternatives had been screened and reduced from 14 to 5. According to Hetrick, he was not involved in substantial decision making over policies, rules or contracts.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Based solely on the information provided to me by Hetrick, Kevin apparently is responsible for managing Clark Dietz's roadway and bridge design projects and staff, and the firm's construction inspection staff.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Clark Dietz usually has multiple contracts with INDOT statewide at any particular time. Kevin Hetrick has been and could be directly involved in future Clark Dietz /INDOT contracts in his new role for this consultant firm.

If Clark Dietz participates in any portion of the design or inspection of I-69 Section 6, Hetrick indicated that he would be involved in senior level project management and QC/QA. Hetrick has told INDOT's Ethics Officer that Clark Dietz is unlikely to be the prime engineering company on any aspect of I-69 Section 6, and would more likely work as a subconsultant on this project.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

It is in the public's interest and beneficial to the state, local governments, and other Indiana public entities to have Kevin's extensive experience available to provide guidance to Clark Dietz, Inc. as it performs its contractual obligations for state and public works projects throughout the state. Kevin's position with his potential employer would apply and utilize his extensive INDOT experience to provide a better product to the state and these other public agencies. It is also in the public's best interest to continue to receive a return on the investment made in Kevin during his several years working at INDOT.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

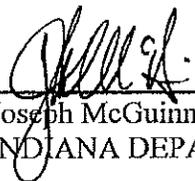
Hetrick indicated to INDOT's Ethics Officer that "Clark Dietz will need to request approval from INDOT's Selection Review Committee (SRC) to be involved in the I-69 Section project. This will definitely impact any larger engineering company from deciding to include Clark Dietz on their team. Also, I-69 Section 6 is a large project that will continue for many years. If for any reason I [Hetrick] ever need to seek new employment, not being able to participate in I-69 Section 6 could make it difficult to find a new job because companies will be leery to hire someone that forces them to seek approval from the SRC to pursue work on this mega-project."

(REST OF PAGE 3 LEFT INTENTIONALLY BLANK)

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee who obtains the waiver before engaging in the conduct that would give rise to a violation.



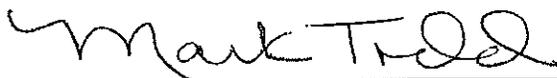
Joseph McGuinness, Commissioner
INDIANA DEPARTMENT OF TRANSPORTATION



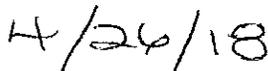
DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).



Mark Tidd, Ethics Officer
INDIANA DEPARTMENT OF TRANSPORTATION



DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

